

The Honorable Philip H. Brandt
Chapter 7
Hearing Date: June 3, 2009
Hearing Time: 9:30 a.m.
Response Date: May 27, 2009
Hearing Location: Tacoma, WA

IN THE UNITED STATES BANKRUPTCY COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON AT TACOMA

In Re:

PETER A. JACOBSON and MARIA E.
JACOBSON,

Debtors.

NO. 08-45120-PHB

MOTION TO APPROVE SETTLEMENT
OF PERSONAL INJURY CLAIM AND TO
APPROVE PAYMENT OF SPECIAL
COUNSEL'S FEES AND COSTS AND
SUBROGATION TO TRUSTEED PLANS
SERVICE CORPORATION

COMES NOW Terrence J. Donahue, duly appointed and acting Chapter 7 Trustee,
for the above-referenced bankruptcy estate, and moves the Court to approve settlement of a
personal injury claim pursuant to FRBP 9019.

BACKGROUND

This bankruptcy proceeding was originally filed on October 7, 2008, as a Chapter 7.

Peter A. Jacobson and Maria E. Jacobson are "Debtors" herein. Debtors are
represented by Kenneth E. Rossback.

Terrence J. Donahue is the duly appointed and acting Chapter 7 Trustee ("Trustee").

Debtors disclosed in their bankruptcy schedules that Maria Jacobson had a personal
injury claim resulting from an automobile accident which occurred on April 19, 2006.

Trustee retained Daniel L. Hannula and Rush, Hannula, Harkins & Kyler, LLP to
pursue the personal injury claim. In this regard, an *Ex Parte* Order Approving Employment
of Special Counsel was entered on December 31, 2008. A copy of the Contingent Fee
Agreement was attached to the underlying Application providing for a contingency fee of

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TERRENCE J. DONAHUE
Chapter 7 Trustee
1201 Pacific Avenue, Ste. 1200
Tacoma, WA 98402
(253) 620-2519

1 one-third of any settlement amount whether by settlement, judgment, arbitration or
2 otherwise, plus costs. The source of payment will be the proceeds generated from the
3 personal injury claim. The net proceeds of which are not subject to any liens or
4 encumbrances except as otherwise provided below. Additional fees and expenses are not
5 expected to be incurred.

6 Mr. Hannula has received a settlement offer of \$125,000.00 for the personal injury
7 settlement. Said settlement is represents the policy limits of the tortfeasors' insurance
8 policies. Trustee has reviewed the matter with Mr. Hannula and discussed the value of the
9 claim, possible settlement and other issues relating to the claim. Upon the advice of Mr.
10 Hannula, Trustee has agreed to accept the settlement amount of \$125,000.00 subject to
11 Bankruptcy Court approval.

12 In this regard, Trustee seeks approval to settle the Debtor's personal injury claim for
13 the sum of \$125,000.00 and to pay therefrom special counsel fees of \$41,666.66 and costs of
14 \$1,090.06.

15 Trustee seeks approval to pay to Trusteed Plans Service Corporation its subrogation
16 claim up to the amount of \$27,299.82.

17 There is a possibility of a potential underinsured motorist claim ("UIM Claim") in the
18 amount of \$25,000.00. Presently, the UIM Claim has been denied by Debtors' insurance
19 carrier. Special counsel is researching whether the claim can be denied by Debtors'
20 insurance carrier.

21 Trustee feels that the settlement is reasonable in light of the possible litigation issues
22 and costs and uncertainty of litigation and it is in the best interest of the estate and therefor
23 Trustee seeks approval to:

- 24 1. Settle the personal injury claim for policy limits of \$125,000.00;
- 25 2. Execute any necessary releases in Trustee's discretion to facilitate the

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1 settlement;

2 3. Pay to Rush, Hannula, Harkins & Kyler, LLP the contingency fee of
3 \$41,666.66 and costs of \$1,090.06;

4 4. Allow Trustee to pay subrogation to Trusteed Plans Service Corporation up to
5 the amount of \$27,299.82;

6 5. The balance of the settlement funds in the amount of \$54,943.46 to be held by
7 Trustee for administration in this bankruptcy estate pending further court order.

8 DATED this 8th day of May, 2009.

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10 By: /s/ Terrence J. Donahue
11 Terrence J. Donahue, WSBA #15193
12 Chapter 7 Trustee
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